

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 19-23649-rdd

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5 In the Matter of:

6
7 PURDUE PHARMA L.P.,

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9 Debtor.

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11
12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15
16 November 18, 2021

17 10:12 AM

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21 B E F O R E :

22 HON ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24
25 ECRO: UNKNOWN

1 HEARING re Notice of Agenda for November 18, 2021 Hearing
2 Motion to Approve /Debtors Motion to Approve Payment or
3 Reimbursement of Certain Fees and Expenses of the
4 Non-Consenting States Group, the Ad Hoc Committee and the
5 MSGE Group Pursuant to Sections 363(b) and 105(a) of the
6 Bankruptcy Code and Bankruptcy Rule 6004 (ECF #3986)
7 Related Document:
8 Statement /The Official Committee of Unsecured Creditors'
9 Statement in Respect of Debtors' Motion to Approve
10 Payment or Reimbursement of Certain Fees and Expenses of the
11 Non-Consenting States Group, the Ad Hoc Committee and the
12 MSGE Group (related document(s)3986) filed by Ira S.
13 Dizengoff on behalf of The Official Committee of Unsecured
14 Creditors of Purdue Pharma L.P., et al. (ECF #4094)
15
16 HEARING re Application for Interim Professional Compensation
17 (Application for Approval of Payment of Compensation, Fees
18 and Costs) for Binder & Schwartz LLP, Special Counsel,
19 period: 3/11/2021 to 8/11/2021, fee:\$272,325.97,
20 expenses: \$367.05. filed by Binder & Schwartz LLP.
21 (ECF #3962)
22
23
24
25

1 HEARING re Notice of Hearing Regarding Late Claim Motions
2 (related document(s) 3893, 3897, 3895, 3894)
3 Motion to File Proof of Claim After Claims Bar Date filed by
4 Jonathan Maae (ECF #3894)

5
6 HEARING re Motion to File Proof of Claim After Claims Bar
7 Date filed by Geoffrey Carpenter (ECF #3895)

8
9 HEARING re Motion to File Proof of Claim After Claims Bar
10 Date filed by Lamont Broussart (ECF #3893)

11
12 HEARING re Objection to Motion / Debtors Objection to Lamont
13 Broussards Motion to File Proof of Claim after Claims Bar
14 Date (related document(s) 3893) (ECF #4100)

15
16 HEARING re Motion to File Proof of Claim After Claims Bar
17 Date filed by Don W. Hardin (ECF #3897)

18
19 HEARING re Objection to Motion / Debtors Objection to Don
20 Hardins Motion to File Proof of Claim after Claims Bar Date
21 (related document(s) 3897) (ECF #4099)

22
23 HEARING re Letter / Requesting Payment Filed by Stephanie
24 Lubinski. (ECF #3723)

25

1 HEARING re Objection / Debtors Objection to Stephanie
2 Lubinskis Motion for Payment of Claim (related
3 document(s)3723) (ECF #4102)

4 Related Document:

5 Motion to Authorize / Requesting Payment (ADMINISTRATIVE
6 ENTRY) (related document(s)3723) filed by
7 Stephanie Lubinski (ECF #3990)

8

9 HEARING re Motion to Authorize \Motion for Clarification
10 filed by Ellen Isaacs. (ECF #3864)

11

12 HEARING re Objection to Motion / Debtors Objection to Ellen
13 Isaacs Motion for Clarification (related document(s)3864)
14 (ECF #4101)

15 Related Documents:

16 NOTICE OF RESCHEDULING HEARING FROM OCTOBER 14, 2021 TO
17 NOVEMBER 18, 2021 - Re:

18 Motion for Clarification with hearing to be held on
19 11/18/2021 at 10:00 AM at Videoconference (ZoomGov)
20 (RDD) (related document(s)3864). (ECF #3896)

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1 HEARING re Notice of Adjournment of Hearing / Notice of
2 Rescheduling Hearing Regarding Motion for Clarification
3 (related document(s)3864) filed by James I. McClammy on
4 behalf of Purdue Pharma L.P.. with hearing to be held on
5 11/18/2021 at 10:00 AM (ECF #3916)

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 DAVIS POLK & WARDWELL LLP

4 Attorneys for the Debtors

5 450 Lexington Avenue

6 New York, NY 10017

7

8 BY: ELI J. VONNEGUT

9 ESTHER TOWNES

10 JACQUELINE KNUDSON

11 JAMES I. MCCLAMMY

12

13 PILLSBURY WINTHROP SHAW PITTMAN LLP

14 Attorneys for the Non-Consenting State Group

15 31 West 52nd Street

16 New York, NY 10019

17

18 BY: ANDREW TROOP

19

20 Binder Schwartz LLP

21 Attorneys for Public School District Creditors

22 366 Madison Avenue

23 New York, NY 10017

24

25 BY: ERIC FISHER

1 ELLEN ISAACS, Pro Se
2 DON W. HARDIN, Pro Se
3 STEPHANIE LUBINSKI, Pro Se
4
5 ALSO PRESENT TELEPHONICALLY:
6 ROXANA ALEALI
7 ANDREW VINCENT ALFANO
8 MICHAEL ATKINSON
9 YVETTE AUSTIN SMITH
10 JASMINE BALL
11 BROOKS BARKER
12 KATHRYN BENEDICT
13 DAVID E. BLABEY
14 SARA BRAUNER
15 DYLAN CONSLA
16 ASHLEY CRAWFORD
17 HEATHER M. CROCKETT
18 MARIO D'ANGELO
19 KEVIN DAVIS
20 JESSE DELACONTE
21 IRA DIZENGOFF
22 CLINT DOCKEN
23 MARIA ECKE
24 KENNETH H. ECKSTEIN
25 BRIAN EDMUNDS

1 BERNARD ARDAVAN ESTANDARI
2 MATTHEW FARRELL
3 ERIC B. FISHER
4 LAWRENCE FOGELMAN
5 ANNELYSE GAINS
6 CAROLINE GANGE
7 MAGALI GIDDENS
8 MICHAEL GOLDSTEIN
9 JAMES GREEN, JR.
10 STEPHEN HESSLER
11 WILLIAM HRYCAY
12 MARSHALL SCOTT HUEBNER
13 MITCHELL HURLEY
14 FRED HYDE
15 HAROLD D. ISRAEL
16 EVAN M. JONES
17 GREGORY JOSEPH
18 MARC KESSELMAN
19 DARREN S. KLEIN
20 ANN LANGLEY
21 ALEXANDER LEES
22 MARA LEVENTHAL
23 JEFFREY LIESEMER
24 STEPHANIE M. LUBINSKI
25 KEVAN MACLAY

1 BRIAN S. MASUMOTO
2 CLAYTON MATHESON
3 GEARD MCCARTHY
4 HUGH M. MCDONALD
5 SHANNON M. MCNULTY
6 NATHANIEL MILLER
7 MAURA KATHLEEN MONAGHAN
8 AMANDA MORALES
9 MICHAEL PATRICK O'NEIL
10 SUSAN OUSTERMAN
11 ARIK PREIS
12 LINDA RIFFKIN
13 RACHAEL RINGER
14 CHRISTOPHER ROBERTSON
15 JEFFREY J. ROSEN
16 COREY WILLIAM ROUSH
17 ELIZABETH SCHLECKER
18 PAUL KENAN SCHWARTZBERG
19 ELIZABETH SCOTT
20 LUCAS H. SELF
21 MARC F. SKAPOF
22 ARTEM SKOROSTENSKY
23 LAURA SMITH
24 KATE SOMERS
25 CLAUDIA Z. SPRINGER

1 KATHERINE STADLER
2 HOWARD STEEL
3 ETHAN STERN
4 ERIC STODOLA
5 JACQUELYN SWANNER
6 MARC JOSEPH TOBAK
7 ALLEN J. UNDERWOOD
8 GERARD UZZI
9 JORDAN A. WEBER
10 THEODORE WELLS
11 DENNIS WINDSCHEFFEL
12 LAUREN S. ZABEL
13 IRVE GOLDMAN
14 RICHARD ARCHER
15 TZERINA DIZON
16 LOWELL W. FINSON
17 MICHAEL D. GOFORTH
18 UDAY GORREPATI
19 TAYLOR HARRISON
20 M. NATASHA LABOVITZ
21 SIDNEY P. LEVINSON
22 MARCIA R. MEOLI
23 NICHOLAS PREY
24 JACOB W. STAHL
25 VINCE SULLIVAN

1 WENDY WEINBERG

2 KATIE M. WHITE

3 MARY JO WHITE

4 HAROLD WILLIFORD

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1 P R O C E E D I N G S

2 THE COURT: Okay, good morning. This is Judge
3 Drain. We're here in In re. Purdue Pharma, L.P., et al.

4 The matters on today's calendar are being held
5 completely remotely primarily by Zoom for Government unless
6 someone doesn't have access to a screen, in which case, they
7 are participating by telephone.

8 I have the agenda for today's hearing, and I'm
9 happy to go down in the order of the agenda, which has been
10 submitted by the Debtors' counsel.

11 MR. VONNEGUT: Thank you, Your Honor. Good
12 morning. For the record, I'm Eli Vonnegut of Davis Polk &
13 Wardwell on behalf of the Debtors. Can you hear me, Your
14 Honor?

15 THE COURT: Yes. I hear you fine.

16 MR. VONNEGUT: Thank you very much. The first
17 item on the agenda today is the Debtors' motion for
18 authority to pay or reimburse the fees and expenses of the
19 Non-Consent State Group, the Ad Hoc Committee, and the MSGE
20 Group. This motion was filed on October 19, Docket Entry
21 3986.

22 Your Honor, the motion is unopposed, so I would
23 propose to just very briefly just describe the basics and
24 then happy to address any questions that Your Honor may
25 have.

1 THE COURT: Okay.

2 MR. VONNEGUT: Okay. So, Your Honor, this motion
3 is carrying out effectively the agreement that we reported
4 to Your Honor on August 13 that was agreed in conjunction
5 with confirmation of the plan to cover the fees of the Non-
6 Consenting State Group that were incurred through the end of
7 the mediation leading to the final form of the plan.

8 Some of those fees were shared across the Non-
9 Consenting State Group and the Ad Hoc Committee. And
10 lastly, in conjunction with discussions around this motion,
11 we also collectively agreed to pay certain fees incurred by
12 the Multi-State Governmental Entities Group as part of the
13 bankruptcy proceeding as well.

14 All told, the fees that are subject to this motion
15 include approximately \$7.5 million incurred by Pillsbury
16 Winthrop, just shy of \$70,000 by NERA Economic Consulting,
17 \$4 million for the Brattle Group, and just over \$50,000 for
18 Dr. Fred Hyde and those fees were all either purely Non-
19 Consenting States Group or shared between the Non-Consenting
20 States and the Ad Hoc Committee of Supporting Creditors.
21 And lastly, for the MSGE, we have \$58,900 for Seitz, Van
22 Ogtrop & Green, and \$648,000 for Godrey & Kahn.

23 Your Honor, briefly, all of these fees were
24 incurred in furtherance of the largely consensual resolution
25 brought to the Court. We maintain that payment of these

1 fees is beneficial to the estates and helpful in pushing
2 these cases towards a successful conclusion.

3 We've received some questions from Your Honor's
4 chambers looking for unredacted copies of invoices. I
5 believe that those have now been submitted to chambers. And
6 so, unless Your Honor has any questions for me or any of the
7 other professionals that are the subject of this motion, we
8 would respectfully ask that the Court grant the motion and
9 authorize payment of these fees.

10 THE COURT: Okay. I want to make sure I
11 understand the context for this motion. The plan itself
12 didn't provide for these fees to be allowed and paid, right?

13 MR. VONNEGUT: That's correct, Your Honor.

14 THE COURT: Okay. And as far as the plan is
15 concerned, and this is highlighted in the Unsecured
16 Creditors' Committee's statement in support of this motion,
17 the payments are coming out of the distributions that would
18 otherwise go to the governmental entities, correct?

19 MR. VONNEGUT: That's correct, Your Honor. The
20 governmental entities under the plan are the residual
21 claimants. And so, effectively, anything paid out of
22 general estate funds ultimately comes out of their plan
23 distributions.

24 THE COURT: So it's not reducing amounts that
25 would be paid to personal injury creditors under the plan.

1 MR. VONNEGUT: No, it will not impact recoveries
2 of non-governmental creditors.

3 THE COURT: And I don't believe that this
4 agreement was part of the mediated settlement with the non-
5 consenting -- with the 15 non-consenting states, correct?

6 MR. VONNEGUT: It was agreed to --

7 THE COURT: The settlement negotiated with the
8 help of Judge Chapman as a mediator.

9 MR. VONNEGUT: Correct, Your Honor. It was not a
10 formal component of that agreement. It was agreed to in
11 that context effectively.

12 THE COURT: What does that mean?

13 MR. VONNEGUT: It was agreed to in connection with
14 the support of the Non-Consenting States Group or the plan,
15 but it was after the conclusion of the mediation.

16 THE COURT: So they had already agreed to support
17 the plan, and this was agreed afterwards? I see Mr. Troop
18 there. He may be better able to answer that question than
19 you.

20 MR. TROOP: Good morning, Your Honor. Andrew
21 Troop for the Non-Consenting State Group.

22 It had always been part of the discussions from
23 the first days of this (indiscernible) and resolutions we
24 reached, we would be reimbursed. The oddity of the mediated
25 settlement was that it was not, as you know, unanimous on

1 the part of the Non-Consenting State Group. And as a
2 result, those discussions extended beyond the time that that
3 mediation concluded, you know, with the understandable
4 questions, which fees would be covered, again, for what
5 period of time. And those details were worked out to cover
6 all fees and expenses incurred by government (indiscernible)
7 through the end of mediation.

8 THE COURT: Okay. All right. I mean, the reason
9 I'm asking this is the authority cited for this motion is
10 Section 363(b) of the Bankruptcy Code, and I agree with the
11 motion that there is authority under Section 363(b) in the
12 right circumstances to approve payment of fees.

13 And I guess the best discussion of that is by
14 former District Judge Mukasey in U.S. Trustee v. Bethlehem
15 Steel Corp., 2003 U.S. District Lexis 12909 (S.D.N.Y. 2003).
16 It's also recognized by another district judge in In re.
17 Enron Corp, 335 B.R. 22 at Page 29 (S.D.N.Y. 2005).

18 The issue I have here is that in those cases and
19 generally where payment of fees is allowed under 363(b)
20 instead of under a different section of the code, the
21 payments are agreed early in the case to facilitate a
22 critical creditor's ability to interact with the debtor
23 and/or other parties in interest in a well-represented way.

24 For example, in Bethlehem Steel, it was payment of
25 the union's fees. The union was the main creditor, and its

1 involvement in the case was critical to any restructuring of
2 Bethlehem Steel. And it was on that basis that I recognize
3 the payment of the Ad Hoc Committee Group in this case.

4 This is a little different in that the agreement
5 comes at the end of the case, and I was asking the questions
6 I was asking to see whether and in what context it was
7 agreed to.

8 It would seem to me that if it comes at the end of
9 the case, normally, one would focus on the standard in
10 Section 503(b) (3) (D) of 503(b) (4). And to some extent and,
11 in fact, to a very large extent, the motion also sets forth
12 facts to satisfy that standard, i.e. the work done by the
13 Non-Consenting States Group and the professionals that it
14 would be covered by this application, covered tasks that it
15 would appear to me did make a substantial contribution to
16 the case, which is the standard under 503(b) (3) and (4).

17 And that included obviously work by a critical
18 group of creditors in terms of coming up with a coordinated
19 process to perform due diligence, which was channeled
20 through primarily Mr. Troop's firm with also some financial
21 experts who recovered.

22 The due diligence also covered not just the
23 inquiry into the claims and causes of action and assets of
24 the released parties, the Sacklers and others, but also the
25 nature of the claims generally by the public and private

1 entities and then thereafter, the allocation negotiations
2 with public and private entities, and the allocation among
3 public entities of the amount allocated to them as a result
4 of those mediations. And then finally, the development of
5 the proposed uses -- well, categories of uses for abatement
6 purposes by public entities under the plan.

7 So it seems to me the proper lens here really
8 should be to review this under Section 503(b), unless I'm
9 missing something.

10 MR. VONNEGUT: No, Your Honor. Frankly, and you
11 just covered the various and extensive contributions made to
12 the case by all of these groups, the NCSG, the Ad Hoc
13 Committee, the MSG Group that I was about to run through
14 that we do think warrant the payment of these fees under
15 either standard.

16 And there is, you know, to a certain degree, I
17 think it's correct to say that, as Mr. Troop said, there was
18 always an expectation that this would be a component of the
19 agreement. But you are correct, of course, that there was
20 not an agreement very early in the case to pay these fees.
21 And so, frankly, we do think either analytical framework
22 works and that the contributions made by these parties were
23 more in payment by the underwriters then.

24 THE COURT: Well, I mean, one of the reasons I
25 asked about an agreement is that the law is also clear that

1 an agreement to pay fees doesn't satisfy the test under
2 503(b)(3) and (b)(4) if it's just to buy off someone that's
3 a pest.

4 Now, the Non-Consenting States Group very actively
5 participated in these cases, often objected to relief that
6 the Debtors and/or the Committee or both were seeking. But
7 having presided over these cases for two years, I do not
8 view them as a pest.

9 And I guess moreover and more importantly, it
10 doesn't appear from what you represented to me and simply
11 from the timetable of events here and, most importantly, the
12 agreement reached as a result of Judge Chapman's mediation
13 with the majority of the non-consenting states in her
14 mediator's report that the payment of these fees was an
15 element of that agreement; something to buy off, in other
16 words, 15 states.

17 The amount, frankly, isn't -- although it's, in
18 terms of dollars, significant amount, it's not the type of
19 amount that, frankly, I would imagine would succeed in
20 buying off 15 state AGs, many of whom who've spent the last
21 several years actively litigating in the opioid litigations
22 around the country, including against Purdue, but I just
23 wanted that context.

24 MR. VONNEGUT: Yes, that's all correct, Your
25 Honor.

1 THE COURT: All right. So there have been no
2 written objections to this motion. I received an email this
3 morning from Ms. Isaacs in which she states that she has
4 objected to it. And I've gone through the docket, Ms.
5 Isaacs; I didn't see an objection to this motion. I did
6 see, again, your motion that is on today's calendar, which,
7 among other things, seeks an order enjoining all payments by
8 Purdue and I think any agreements for payments by Purdue.

9 And so, I think in that broad sense, one could
10 view that pleading as an objection to the motion, but it
11 isn't really to this motion, but I did want to note that for
12 the record.

13 MS. ISAACS: Your Honor, that is correct, and I
14 have filed an objection. And I am having a great deal of
15 difficulty with the clerk's office getting these objections
16 in and getting information processed properly, getting links
17 and everything else to these proceedings.

18 THE COURT: What objection did you file? You
19 objected to this motion?

20 MS. ISAACS: I've objected -- yeah, I've been
21 objecting. I've been sending stuff in. Nobody can find
22 documents.

23 THE COURT: No, no. Ms. Isaacs, our clerk's
24 office is superb, all right?

25 MS. ISAACS: No, they're not because four times in

1 a row, I didn't get the link.

2 THE COURT: Well, I disagree with you on that,
3 ma'am, seriously. And they take letters that are hard to
4 decipher as far as what they're seeking relief on, so I'm
5 going to ask you a specific question.

6 This motion is --

7 MS. ISAACS: Your Honor, if I can have a second
8 while you're looking.

9 THE COURT: I'm sorry. I'm looking at the date.

10 MS. ISAACS: I would like you to look --

11 THE COURT: Excuse me, ma'am.

12 MS. ISAACS: I don't want you to take things
13 personal. I want you to understand.

14 THE COURT: I'm trying to figure out what you have
15 actually filed an objection to. This motion was dated
16 October 19, 2021. Did you object to this motion with regard
17 to this relief?

18 MS. ISAACS: Yes. I sent documents in through the
19 portal, and I've been chasing down documents through your
20 office and through Judge McMahon's office. People can't
21 find things. The pro so department can't find things.
22 NYLAC doesn't know what to do. Nobody knows what to do in
23 this case. It's very frustrating.

24 THE COURT: What was the basis -- what was the
25 basis for your objection to this motion?

1 MS. ISAACS: The basis to my objection to the
2 motion is that it's out of order. We cannot continue to
3 keep bleeding all the money out of this case, and there's
4 not going to be anything left for anybody when it's all said
5 and done.

6 THE COURT: And you wrote that in a written
7 motion.

8 MS. ISAACS: Yes, I did.

9 THE COURT: You're making a representation to me
10 now, Ms. Isaacs. We will track it down.

11 MS. ISAACS: Yes, I am.

12 THE COURT: I would like you to email me to my
13 chambers how you sent it in, all right, and I will track it
14 down.

15 MS. ISAACS: I will. Okay, thank you very much.

16 THE COURT: All right.

17 MS. ISAACS: I appreciate that.

18 THE COURT: Now, this motion does not provide for
19 the immediate payment of this money. It authorizes the
20 payment as part of the effectiveness of the plan. It is not
21 money that would go to personal injury claimants. The
22 states would be spending this money themselves. In fact,
23 the motion recites that almost all of it has already been
24 spent by the states; they would be reimbursed for it. And
25 therefore, it does not appear to me to be reducing the

1 recovery by the estates to pay this money. It just evens it
2 out.

3 So I don't see, as far as what you've represented
4 to me as the basis for the objection here, a basis. Someone
5 had to do this work, and they are not going to do it for
6 free, and it was work that was actually done in a
7 coordinated basis to coordinate 25 states through
8 essentially one law firm and one financial expert.

9 So I'm going to overrule that objection. I do
10 want you to send it to me to chambers. And you're
11 representing to me that you actually tried to have this
12 filed. When did you try to have it filed?

13 MS. ISAACS: I think it was the beginning of
14 November. I have to go back and check through my computer.

15 THE COURT: Okay, very well. Well, we will try to
16 straighten that out. When you email it to me, tell me who
17 you sent it to, okay?

18 MS. ISAACS: Okay, I will.

19 THE COURT: All right. Okay.

20 MS. ISAACS: Thank you.

21 THE COURT: All right. So I will grant this
22 motion.

23 MR. TROOP: Your Honor, I'm sorry to interrupt
24 you. But just to be clear, you said something, and I just
25 want the record to be clear.

1 THE COURT: Right.

2 MR. TROOP: That the payment of the funds under
3 this motion is not contingent on the effective date, but it
4 is to be paid in the ordinary course. The impact fees,
5 however, as Mr. Vonnegut described, that comes out of the
6 contingent.

7 THE COURT: All right. I will make it contingent
8 on the effective date though. I think that's appropriate
9 here.

10 MR. TROOP: Okay, thank you.

11 THE COURT: So I'll ask the Debtors to submit the
12 order granting the motion with that one change. I've
13 reviewed the time entries. I reviewed most of the redacted
14 time entries that were submitted this morning, and they
15 don't cover time that would not properly be compensable.

16 I also note that the states negotiated, apparently
17 across the board, 15 percent discount. And, frankly, the
18 time spent given the role of the professionals was
19 reasonable to begin with. But any concerns that I would
20 have about excessive time and the like are taken into
21 account by the 15 percent discount.

22 All right. The next matter on the calendar wasn't
23 a matter that was dealt with as part of the plan and my
24 confirmation ruling and order, which is the compensation of
25 Binder & Schwartz, which is also listed as on the agenda as

1 uncontested.

2 Binder & Schwartz was counsel to the Public School
3 District claimants. The plan had originally provided that
4 their fees would be paid. I ruled at the confirmation
5 hearing that I didn't have a sufficient record to determine
6 whether those fees were reasonable under Section 1129(a)(4)
7 of the Bankruptcy Code and established a process for the
8 firm to submit its time and expenses so I can make that
9 determination.

10 It's done that and I've reviewed the time and
11 expense records. Again, this application, I believe, was
12 not opposed by any filing, and I have a certificate of no
13 objection submitted by the firm. This would be a payment
14 that would come out of the distribution, as I understand it,
15 in respect of the school districts.

16 Again, I've reviewed the time stated. There's
17 also a 15 percent discount negotiated by this firm. And
18 given that 15 percent discount and the firm's rates, which
19 are lower than I think is probably market in this district,
20 I'm prepared to grant the application under 1129(a)(4).

21 So I'm going to ask counsel to submit an order on
22 that basis.

23 MR. FISHER: Eric Fisher from Binder & Schwartz.
24 Thank you very much, Your Honor.

25 THE COURT: Okay. And I think you should use the

1 standard form of fee order that we use in this district,
2 which has a Schedule A and B attached to it, even though
3 this is under 1129(a)(4) instead of under Section 330 of the
4 Code.

5 MR. FISHER: We will do that, Your Honor.

6 THE COURT: All right. So, Mr. Vonnegut, I think
7 the next matter on the calendar is a motion by Jonathan
8 Maae, which is a pro se motion that the clerk docketed and
9 noticed for a hearing. And as I understand it, this motion
10 is unopposed.

11 MR. VONNEGUT: That's correct, Your Honor, and
12 this motion will be addressed by my colleagues, Ms. Townes.

13 THE COURT: Okay.

14 MS. TOWNES: Good morning, Your Honor. For the
15 record, this is Esther Townes of Davis Polk & Wardwell on
16 behalf of the Debtors. Can you hear me clearly?

17 THE COURT: I can hear you fine. Thanks.

18 MS. TOWNES: So I'll also be handling the next
19 motion that's on the agenda, which is the late claim motion
20 by Geoffrey Carpenter. So Mr. Maae's late claim motion is
21 at Docket No. 3894 and Mr. Carpenter's late claim motion is
22 at Docket No. 3895.

23 We've carefully reviewed both of these motions and
24 the (indiscernible) the individualized assertions that the
25 make. The Debtors believe that there's a colorable basis

1 for granting the motions under the Pioneer factors. So as
2 we've done in the past, we consulted with the Creditors'
3 Committee, as well as the Ad Hoc Committee of Individual
4 Victims regarding those assertions and they consented to the
5 relief that we're requesting in the proposed order that was
6 filed at Docket No. 4098-1.

7 And this is consistent with the prior orders that
8 we've submitted to the Court for late claim motions, and so,
9 we would respectfully request that it be entered.

10 THE COURT: Okay. All right. I don't know if I
11 have Mr. Maae or Mr. Carpenter on the phone. This hearing
12 was noticed by a notice dated October 7. I've reviewed both
13 of the handwritten letters that were submitted to the Court.

14 Mr. Maae relates that he is homeless and has been
15 homeless during the time when he would have needed to file a
16 timely proof of claim. Mr. Carpenter relates that he's been
17 incarcerated in Washington State and under constant lockdown
18 since the start of the pandemic.

19 Under those circumstances, I agree with the
20 Debtors and the parties that they consulted with, including
21 the Creditors' Committee that the reason for the late filing
22 of these two proofs of claim was outside of the claimant's
23 control and that, therefore, the neglect is excusable for
24 purposes of Rule 9006 and the case law under it.

25 So I'll grant each of these motions. I'll ask the

1 Debtors' counsel to submit an order doing that on both of
2 them.

3 MS. TOWNES: Thank you, Your Honor.

4 THE COURT: All right. The next matter on the
5 calendar is another handwritten motion submitted by Lamont
6 Broussard for leave to file a late proof of claim. I don't
7 know if Mr. Broussard is on the phone or on Zoom. Again,
8 this was noticed for a hearing by a notice dated October 7,
9 2021. Okay. I don't think he is.

10 Who is handling this on behalf of the Debtors?

11 MS. KNUDSON: Good morning, Your Honor. For the
12 record, this is Jacqueline Knudson of Davis Polk & Wardwell
13 on behalf of the Debtors, and I'll be handling this motion.
14 Can you hear me clearly?

15 THE COURT: Yes, I can.

16 MS. KNUDSON: Thank you, Your Honor. As set forth
17 in our objection to Mr. Broussard's late claim motion, Mr.
18 Broussard has simply not provided sufficient information for
19 the Debtors to determine whether the request satisfies the
20 excusable neglect standard set forth in Federal Rules of
21 Bankruptcy Procedure 9006 and the so-called Pioneer factors.

22 Accordingly, although the Debtors are sympathetic
23 to Mr. Broussard and his circumstances, we must object to
24 the motion and request that the Court deny the motion
25 without prejudice.

1 With respect to the most important factor, the
2 reason for the delay, it's unclear from the motion why Mr.
3 Broussard was unable to file a proof of claim before the bar
4 date. Although he notes in his motion that he is currently
5 in in-patient treatment, he has not alleged that he was in
6 in-patient treatment prior to and leading up to the July 30,
7 2020 bar date, nor did he allege that the in-patient
8 treatment or an unspecified amount of time in prison he
9 referenced in his proof of claim prevented him from timely
10 filing the claim.

11 Moreover, the Debtors believe that allowing Mr.
12 Broussard's claim would encourage other latecomers seeking
13 to assert claims against the Debtors related to opioid use
14 to file claims which would prejudice the Debtors and, more
15 importantly, the Debtors' creditors.

16 THE COURT: Okay.

17 MS. KNUDSON: Finally, the (sound glitch) figure
18 was substantial. Mr. Broussard filed his motion (sound
19 glitch).

20 THE COURT: We lost the audio there, Ms. Knudson.

21 MS. KNUDSON: Your Honor, can you hear me?

22 THE COURT: I can hear you now, yes.

23 MS. KNUDSON: Can you hear me?

24 THE COURT: Yes.

25 MS. KNUDSON: Thank you, Your Honor.

1 THE COURT: All right. Well, now I can't hear
2 you.

3 MS. KNUDSON: So with respect (sound glitch). Can
4 you hear me now, Your Honor?

5 THE COURT: Yes.

6 MS. KNUDSON: Okay. Apologies, Your Honor. I'm
7 not sure where exactly you lost me.

8 THE COURT: Well, you were noting that the motion
9 was filed at the end of the September, so that the delay was
10 over a year since the bar date.

11 MS. KNUDSON: That's correct, Your Honor. So
12 nearly 14 months after the bar date is when he filed his
13 motion and proof of claim.

14 So just given all of these factors, coupled with
15 the potential to open the floodgates to other personal
16 injury claimants, we do not think he has met the Pioneer
17 standard. And for these reasons, we would respectfully
18 request that the Court deny the motion without prejudice.

19 THE COURT: When you say without prejudice, I'm
20 assuming but I just want to confirm this, that if Mr.
21 Broussard is able to, in a timely fashion, provide evidence
22 that during the relevant period leading up to the bar date
23 and thereafter, he was unlikely to get notice of the bar
24 date for reasons like Mr. Carpenter or the number of other
25 people who the Debtors have agreed to permit a late claim to

1 be filed, the Debtors would consider potentially permitting
2 the claim to be filed late?

3 MS. KNUDSON: That's correct, Your Honor. We did
4 reach out to Mr. Broussard in a letter requesting additional
5 information, but we have not heard back, which is why we
6 objected to the motion and request that it be denied without
7 prejudice, so that if he can, in fact, provide additional
8 information, then we would consider that in the context of
9 excusable neglect standard.

10 THE COURT: Okay. All right. I have a motion
11 before me that was filed on September 27, 2021 by Lamont
12 Broussard for leave to file a proof of claim in these cases
13 late; that is, after the claims bar date, which was July 30,
14 2020, as extended from the original bar date of June 30,
15 2020.

16 The policy behind a bar date in a bankruptcy case
17 serves the important purpose of enabling the parties in
18 interest to ascertain with reasonable promptness the
19 identity of those making claims against the estate and the
20 general amount of the claims, a necessary step in achieving
21 a goal of a successful reorganization. In re Calpine Corp.,
22 2007 U.S. District Lexis 86514 at Pages 14-15 (S.D.N.Y. Nov.
23 21, 2007).

24 The enforcement of a bar date, therefore, allows
25 the Debtor-in-possession and other parties in interest to

1 evaluate the claims against the estate in a negotiated plan
2 that relates to the claims filed. In re Drexel Burnham
3 Lambert Group, Inc., 148 B.R. 1002, 1008-10 (Bankr. S.D.N.Y.
4 1993).

5 Allowing late filed claims, especially after a
6 plan has been confirmed, subjects the Debtor to prejudice
7 because the settlements upon which the plan is premised
8 would then have new data, namely additional claims, that
9 weren't taken into account as part of the negotiation. It
10 also potentially alters the distribution to creditors who
11 relies on the disclosed distribution when considering the
12 request for confirmation. Id. In other words, in
13 bankruptcy, dates really do matter.

14 Nevertheless, Bankruptcy Rule 9006(b)(1) permits a
15 claimant to file a late proof of claim if the failure to
16 submit a timely proof of claim was due to "excusable
17 neglect." The burden of proving excusable neglect is on the
18 claimant seeking to extend the bar date. In re R.H. Macy &
19 Co., 161 B.R. 355, 360 (Bankr. S.D.N.Y. 1993).

20 The Supreme Court has developed a two-step test
21 for determining whether a claim filed after the bar date was
22 due to excusable neglect. In Pioneer Investment Services
23 Co. v. Brunswick Associates Ltd Partnership, 507 U.S. 380
24 (1993).

25 First, the movant must show that its failure to

1 file a timely claim constituted neglect, as opposed to
2 willfulness or a knowing omission, neglect generally being
3 attributed to a movant's inadvertence, mistake, or
4 carelessness. Id at 387-88.

5 After establishing neglect, the movant must show
6 by a preponderance of the evidence that the neglect was
7 excusable. That analysis is to be undertaken on a case-by-
8 case basis, that is based on the particular facts of the
9 case, although the Court is to be guided by and make the
10 determination balancing the following factors: (1) the
11 danger of prejudice to the Debtor; (2) the length of the
12 delay and whether or not it would impact the case; (3) the
13 reason for the delay, in particular whether the delay was
14 within the control of the movant; and (4) whether the movant
15 acted in good faith. Id at 395. See also, In re DPH
16 Holdings, Corp., 434 B.R. 77, 82 (S.D.N.Y. 2010).

17 Inadvertence, ignorance of the rules, or mistakes
18 construing the rules do not usually constitute excusable
19 neglect. Midland Cogeneration Venture L.P. v Enron Corp.
20 (In re Enron Corp.), 419 F.3d 115, 126 (2d Cir. 2005). In
21 that case, the Second Circuit, in upholding a lower court
22 determination that a late filed proof of claim would not be
23 deemed timely filed, stated:

24 "We have taken a hard line in applying the Pioneer
25 test. In a typical case, three of the Pioneer factors --

1 the length of the delay, the danger of prejudice, and the
2 movant's good faith -- usually weigh in favor of the party
3 seeking the extension. We noted, though, that we and other
4 circuits have focused on the third factor, the reason for
5 the delay, including whether it was within the reasonable
6 control of the movant, and we cautioned that the equities
7 will rarely, if ever, fails a party who fails to follow the
8 clear dictates of the court rule, and that where the rule is
9 entirely clear, we continue to expect that a party claiming
10 excusable neglect will, in the ordinary course, lose under
11 the Pioneer test." Midland 419 F.3d at 122, 323. See also,
12 In re Ditech Holding Corp., 2021 B.R. Lexis 2085 at Page 16
13 (Bankr. S.D.N.Y. Aug. 4, 2021) and In re Musicland Holding
14 Corp., 2006 B.R. Lexis 3315 at Pages 10-11 (Bankr. S.D.N.Y.
15 2006).

16 Here, as the Debtors have noted, Mr. Broussard
17 does not set forth sufficient facts to carry his burden of
18 proof as to the reason for the delay and whether it was or
19 was not within his control.

20 In addition, unlike the ordinary case, the delay
21 here was quite significant, over a year, between the bar
22 date and Mr. Broussard's motion. And finally, because we
23 are at this stage in the case, post-confirmation of a plan,
24 there is prejudice to the Debtors and their creditors in
25 allowing late claims. That is recognized even where the

1 amount of an individual claim is relatively modest, as is
2 the case here, although the amount of the claim asserted is
3 \$500,000. See, for example, Lehman Bros. Holdings Inc., 433
4 B.R. 113, 120-21 (Bankr. S.D.N.Y. 2010).

5 The fact that a plan has been confirmed is not
6 dispositive on this issue, but it is a factor that the Court
7 should take into account, again, as recognized by the
8 Midland case at Page 129.

9 So given the record before me, I conclude that Mr.
10 Broussard has not carried his burden of proof and that the
11 motion should be denied. I will deny it without prejudice,
12 though. If he is able to provide sufficient evidence to
13 show that during the actual period at issue, the filing was
14 of a timely claim was not reasonably within his control, my
15 ruling is subject to reconsideration. Again, assuming that
16 that evidence is brought forth promptly given the other
17 factors that I've already addressed.

18 So I'll ask the Debtors' counsel to submit an
19 order denying the motion on that basis.

20 MS. KNUDSON: Thank you, Your Honor. We'll do
21 that.

22 THE COURT: The next matter on the calendar is Mr.
23 Hardin's motion, also for leave to file a proof of claim
24 late after the bar date.

25 The Debtors have objected to it and Mr. Hardin has

1 responded with a filing, actually two filings: one from
2 September 23 and a more recent one in response to the
3 Debtors' objection, both of which I've read.

4 And I see you there, Mr. Hardin if you want to
5 just state your name for the record.

6 MR. HARDIN: Had to unmute. Thank you, sir. My
7 name is Don Hardin. Can you hear me?

8 THE COURT: Yes, I can.

9 MR. HARDIN: Thank you, sir.

10 THE COURT: Okay. So I know you were listening
11 carefully to the last hearing. And as I said, I've read the
12 Debtors' objection and your response to it, as well as, of
13 course, the motion.

14 I assure you that I did not read your motion as
15 any sort of disrespect to the Court. I think in your
16 response, you had some concern that that might have been the
17 case, but that was not the case.

18 The focus, though, as I noted during the last
19 ruling, was -- of the Debtors' objection was on what is the
20 basis for the claim having been filed late and whether it
21 was within your control or not to file it earlier or on
22 time.

23 MR. HARDIN: Is that a question, sir?

24 THE COURT: Well, I have what you have in the
25 pleadings. I don't know if you want to supplement that with

1 anything for me.

2 MR. HARDIN: Well, sir, I'm not proud to say,
3 after the Twin Towers went down, I kind of stopped the news
4 and newspapers and things. And I really wasn't up to date
5 on any of this stuff up until this summer when someone asked
6 me about it -- I don't remember who -- and it just came in
7 my face recently.

8 THE COURT: Well, when did you learn about the bar
9 date?

10 MR. HARDIN: Just probably the end of this summer
11 when I first started talking to, I guess it was Prime. I'm
12 not sure, but I wish I would have gotten some mail or email
13 or information about this serious contact to me.

14 THE COURT: Right. When did you learn about
15 Purdue's Chapter 11 case, it's bankruptcy case.

16 MR. HARDIN: Everything, like I said, is basically
17 towards the end of this summer when I first started the
18 paperwork.

19 THE COURT: Okay. And then you looked it up
20 somewhere and then contacted either the Debtors' lawyers or
21 Prime Clerk or someone to learn about the claims process?

22 MR. HARDIN: Yes, sir. I was told that it was way
23 too late, and I was also told to go ahead and submit a claim
24 to see what would happen or something like that. So I don't
25 have a lawyer. I don't understand a lot of this court

1 stuff, to be honest with you, but I'm just leaving it in
2 your hands and what God has to say about it.

3 So thank you for at least giving me the chance to
4 be heard.

5 THE COURT: Okay. Do the Debtors have any
6 response on this?

7 MS. KNUDSON: Yes, Your Honor. This is Jacqueline
8 Knudson again from Davis Polk & Wardwell on behalf of the
9 Debtors. Can you hear me more clearly now?

10 THE COURT: Yes. There's a little bit of
11 background noise, but I can hear you.

12 MS. KNUDSON: Thank you, Your Honor. Your Honor,
13 as we set forth in our objection, we do believe the request
14 here does not satisfy the Pioneer factors and the excusable
15 neglect standard.

16 We did note in our motion that this is very
17 different from some of the late claims that this Court has
18 allowed as timely. And each of those prior late claims had
19 set forth individualized assertions and provided a
20 justifiable reason, something outside of the individual's
21 control for the untimely filing.

22 And as we noted in our objection, Your Honor,
23 other than Mr. Hardin noting that he was preoccupied with
24 getting his next prescription, we don't think Mr. Hardin has
25 provided any reason for his delay, which is over 14 months

1 after the bar date. We also would note that we believe the
2 bar date program was extensive and did reach over 98 percent
3 of creditors over eight times.

4 So with that, Your Honor, I think we will stand on
5 our papers, but would respectfully request that the Court
6 deny the motion.

7 THE COURT: Okay. I'm going to hold the motion
8 for now. I note that Mr. Hardin has prepared, and I think
9 filed his proof of claim, which is quite detailed. I'm
10 holding it because, unlike Mr. Broussard, he has given me
11 additional information as to why he didn't file his claim on
12 a timely basis, which is basically that he doesn't pay
13 attention to media. That may or may not ultimately be a
14 sufficient excuse.

15 Obviously, the delay here is significant, as I
16 noted with regard to the last matter, Mr. Broussard's
17 motion. In fact, the motion here is filed even a little
18 later than Mr. Broussard's on October 6, 2021.

19 On the other hand, as I said, he has given me some
20 additional information on the excuse. And in addition, it's
21 not clear to me at this point whether there will be
22 significant other requests for late claims.

23 I will note that there is a, I believe,
24 appropriate cutoff date in the rule and in the statute for
25 late claims, which would be the effective date of the plan.

1 See In re St. James Mechanical, Inc., 434 B.R. 54, 61
2 (Bankr. E.D.N.Y. 2010) at 61-62 actually. And if it turns
3 out that the granting of Mr. Hardin's motion would be, in
4 essence, law of the case for lots of other motions, then I
5 won't grant it. But if, frankly, very few people or no
6 other people apply, then I will grant it.

7 So I will ask the Debtors to hold off on an order
8 on this. I'll take it under advisement and see what the
9 status is of other motions to file late claims, if there are
10 others in the future and whether they unfortunately fall
11 into the fact pattern that Mr. Hardin has laid out for me
12 and if and when the effective date occurs.

13 You need to update me, Ms. Knudson. And again, if
14 there are a small number or no additional motions that fall
15 into this fact pattern, I'm likely to grant Mr. Hardin's
16 motion. If there are many of them, then I'll probably deny
17 it.

18 MS. KNUDSON: Thank you, Your Honor.

19 THE COURT: Okay. I hope that was clear, Mr.
20 Hardin.

21 MR. HARDIN: Thank you, sir. I appreciate your
22 time and consideration. Very nice.

23 THE COURT: If I do grant the motion, my taking it
24 under advisement for this period won't delay any
25 distribution to you because there's that second process to

1 process your claim. It's on file, so you can pursue that
2 process if I do grant your motion, along with everybody
3 else.

4 MR. HARDIN: I'm sorry, sir, but I really didn't
5 understand a whole lot of what you just said.

6 THE COURT: Under the plan, there's a set of
7 procedures for the Personal Injury Trust that's funded under
8 the plan with, in essence, the first dollars out, to review
9 all of the claims like yours for personal injury to
10 determine whether they should be allowed or not.

11 There's a whole mechanism in the plan for whether
12 you ask for a prompt review, which trades off a streamline
13 review for an assured lower payment, if it's allowed, versus
14 a slower review that may or may not result in a higher
15 payment, but all of that review starts no earlier than the
16 effective date of the plan.

17 So I'm delaying my ruling on your motion until
18 that same date, the effective date on the plan, so any
19 distribution to you is not going to be delayed by my taking
20 your motion under advisement.

21 MR. HARDIN: Okay. Thank you, sir. I wish I
22 could understand better, but...

23 THE COURT: Well, you should get --

24 MR. HARDIN: Does the court or does Prime advise
25 me as to what my next step would be, other than what you

1 just told me?

2 THE COURT: I think probably the best thing for
3 you to do, because I understand you don't have a lawyer, is
4 to reach out to the lawyers for the Official Unsecured
5 Creditors Committee, and they can point you to the documents
6 that will show you the process for getting your claim
7 allowed.

8 MR. HARDIN: Okay. And who is that again?

9 THE COURT: Well, they're on the docket of the
10 case. It's the law firm Akin Gump.

11 MR. HARDIN: Oh yes.

12 THE COURT: And they represent the Official
13 Unsecured Creditors' Committee. But again, those processes
14 only apply for people whose claims are allowed. Yours is
15 not currently allowed because it was filed late. But if I
16 do grant your motion, then you go into that process, so to
17 understand that process, you could reach out to them.

18 MR. HARDIN: That's great. I appreciate it,
19 Judge. Should I stay on for the remainder of the meeting?

20 THE COURT: No, you don't need to stay on. You
21 can sign off.

22 MR. HARDIN: Okay. Thank you very much. God
23 bless you all. See you later. Bye-bye.

24 THE COURT: Okay. The next matter on the calendar
25 is Ms. Lubinski's motion for, I gather, immediate payment of

1 her claim. And I see Ms. Lubinski there on the screen.

2 MS. LUBINSKI: Yes. Hello, Your Honor.

3 THE COURT: Good morning. I've read that motion
4 and the Debtors' objection to it. Again, I've read both of
5 those matters. I've dealt with this issue before in the
6 context of other similar motions in the case, but I'm happy
7 to hear brief oral argument on it if people want to say more
8 than what they've said in their filed papers.

9 MS. LUBINSKI: Sure. I appreciate that. My name
10 is Stephanie Lubinski, and our life was completely altered
11 (sound glitch) due to the prescription of OxyContin to my
12 husband, Troy Lubinski, which is actually his birthday
13 today. It was 25 years of uncertainties and desperations
14 for him to overcome this medication.

15 On September 22nd of 2020, he committed suicide.
16 The medication that was given to him totally changed him.
17 He was given 40 pills a day to take, and that was not
18 enough. We had to file bankruptcy, we lost our home, we
19 lost many personal items that he had to sell. It was 25
20 years of not a life that we chose.

21 Our monies -- that we were blue collar workers.
22 He was a firefighter and I worked for a union, and all of
23 our monies went to pay for the Sackler family to have the
24 life, the opulent life they had.

25 My husband's life is no more special than all the

1 other victims, and you just see all these names that are
2 paid out to lawyers and people. I can't afford a lawyer. I
3 cannot understand most of the things that are happening.
4 All I know is what this drug has done to our family and many
5 others.

6 I have stage 4 cancer now. I've taken care of my
7 husband for those 25 years getting him through all of that.
8 And in the end, he's gone because there was no help for him
9 from what that caused, and now I have no one to take care of
10 me and I don't have time to sit and wait and try to get some
11 justice. And I don't even want the money to come out of the
12 claimants' money; I want it to come from them, the Sackler
13 family because they are not suffering at all, and it's just
14 not fair. We didn't choose this; it was pushed upon us, and
15 I just would really like some consideration for us victims.

16 And I appreciate your time, Your Honor. Thank
17 you.

18 THE COURT: Okay, thank you.

19 MR. McCLAMMY: Good morning, Your Honor. Jim
20 McClammy of Davis Polk & Wardwell on behalf of the Debtors.

21 Just briefly, Your Honor. As you noted in our
22 papers, this motion filed by Ms. Lubinski and others like
23 it, you know, the Debtors have viewed with great sympathy,
24 and I can't even imagine how hard it is to experience what
25 Ms. Lubinski's gone through or to be able to share that with

1 us here today, but I did want to at least note that for the
2 record.

3 Otherwise, Your Honor, as this Court has addressed
4 before, the bankruptcy system doesn't allow for the payments
5 requested in the form that Ms. Lubinski has requested here,
6 and we stand on what we've put in our papers for purposes of
7 our objection.

8 THE COURT: Okay. All right. Miss Lubinski, I
9 remember you and your letter well. I read it from the bench
10 to the parties in the case --

11 MS. LUBINSKI: Thank you.

12 THE COURT: -- to urge them at a time when there
13 was no agreement on a plan to agree to get to the point
14 where money could flow to people like yourself and to abate,
15 to the extent one can, the opioid crisis.

16 I also tried very hard at the beginning of this
17 case, as did many of the people in this case, including the
18 Creditors' Committee and the Debtors, to have an emergency
19 fund, which was really unheard of in bankruptcy law, at the
20 start of the case to go out before a plan.

21 Because it was so unusual to have a fund like
22 that, \$200/\$250 million, you really needed almost complete
23 agreement to let it happen and there wasn't from certain key
24 parties in the case. And it wasn't from the Sacklers; it
25 was from creditors in the case who opposed it.

1 So the only way that you normally have payments to
2 creditors in a bankruptcy case is through a plan when the
3 plan goes effective, and that's because there are so many
4 creditors, you can't pick and choose who you pay.

5 And that's where we are now. A plan has been
6 confirmed; it's currently on appeal. Promptly after it goes
7 effective, and that requires there not being a stay in place
8 and, of course, it requires the appeal being granted -- and
9 I don't know whether that will happen or not -- that's when
10 the distribution process starts for everyone.

11 And as much as I would like to get money to people
12 now, I don't have the power to do that. It only would
13 happen under the plan, or if the plan's not confirmed, some
14 other plan that's negotiated in the future, so I can't grant
15 your motion.

16 The Debtors are not objecting to your claim;
17 they're just objecting to having a payment to you now, as
18 opposed to through the plan.

19 MS. LUBINSKI: Okay.

20 THE COURT: So I will ask the Debtors to prepare
21 an order that denies the motion.

22 MR. McCLAMMY: We will do that, Your Honor.

23 THE COURT: Okay, thank you.

24 MS. LUBINSKI: Thank you.

25 THE COURT: Okay. All right. The last matter on

1 the calendar is Ms. Isaacs' motion, which is captioned,
2 motion for clarification; it's dated September 30. And in
3 it, Ms. Isaacs seeks various forms of relief, in part, to
4 correct what Ms. Isaacs believes is an incorrect record with
5 regard to an earlier motion that she filed on August 17.

6 And then, in addition, "to refute any
7 distributions of any assets at all to any individual,
8 entity, organization, corporation, attorney, or otherwise
9 until the Appellate Court renders their decision, along with
10 the recall of any and all funds previously ordered to be
11 paid." Second, "refute the sale of any equipment or
12 entities of Purdue Pharma, subsidiaries and/or any company
13 under the umbrella of the Purdue Pharma/Sacklers various
14 trusts in the U.S. and around the world."

15 And then last, "request the immediate
16 investigation by a third party into the bankruptcy
17 proceedings, including but not limited to the transfer of
18 all funds between all the parties involved in these
19 proceedings."

20 I also have the Debtors' objection to that motion.

21 So again, I've reviewed those pleadings. And I've
22 also received in the last couple of days, in addition to the
23 email that I mentioned that I got this morning, an email
24 from Ms. Isaacs from a couple of days ago in which she
25 states that -- well, it wasn't clear to me, frankly. But I

1 believe she states that I haven't ruled on something that
2 she had submitted and that she's having difficulty obtaining
3 pro bono counsel.

4 So I'll address that email also, Ms. Isaacs,
5 before we're done today, but my focus is on this motion.
6 And again, with respect to the motion, I've read the
7 pleadings, but I'm happy to hear brief oral argument on it.

8 MS. ISAACS: Thank you, Your Honor. I'm a little
9 emotional after hearing the last woman. I'm really sorry.
10 My heart goes out to Miss Lubinski. I'm really sorry for
11 your pain and sorrow.

12 Again, here we go, just like last time we did
13 this, and I got upset in the beginning.

14 If everybody -- and I wrote it down, so I don't
15 get off the trail. If everyone could please listen
16 carefully so you can all get a clear understanding of what
17 is truly going on within these proceedings and all judicial
18 proceedings across the nation, I'd appreciate you.

19 An act to regulate the time and manner of
20 administering certain oaths first law passed in the United
21 States Congress after the ratification of the U.S.
22 Constitution. It was signed by President George Washington
23 on June 1st, 1789. Since that very time, every law that has
24 been effectuated has been based upon prior procedures that
25 became law and case precedence that paved the way for a new

1 law.

2 Now the attorneys have so many cases to muster
3 through looking for loopholes to proceed with cases to prove
4 their point of intent, and here is why the courts have the
5 authority to make decisions based upon antiquated laws that
6 no longer serve the people in today's socio-economic
7 environment. All the laws in our country have been made up
8 by those in power would agree, reading all the documents for
9 any procedure and any case law is irrelevant when one really
10 looks at how every case in the legal justice system and law
11 books were made up by the past happenings that were put into
12 the law book.

13 It is time we look to the future to see how
14 damaging all of the past laws have created the allowance of
15 the Presidential declaration of the current national public
16 health and safety emergency. It is time to once again pause
17 and go back to proceeding with caution, that as a society do
18 not continue to contribute to the public health and safety
19 emergency.

20 The CDC reported two days ago that there were over
21 100,000 deaths in the past year. For every loved one,
22 there's mothers, fathers, siblings, children, aunts, uncles,
23 cousins, friends, and colleagues that are grieving and
24 tearing the families apart. These casualties behind the
25 deaths are suffering from mental and physical disease due to

1 the stress due to the laws that were made up by the
2 government and the attorneys that made those laws through
3 the use of the government, stress that is creating somatic
4 symptoms that is causing the medical community to be
5 overladed with patients and staff that have no idea how to
6 treat those in mourning for those that have passed on and
7 continue to pass on at an unprecedented rate.

8 Your Honor, once again, I did not receive service
9 by the Debtors of their objections. I suspected they filed
10 their objection and began hunting for it. I have not been
11 able to find the Prime Clerk docket; it has been down for
12 nearly a week, and I cannot afford the Pacer account for
13 access to documents, which is discriminatory to a disabled
14 party that is trying to participate in this case.

15 Notwithstanding Ben Higgins of the Trustee's
16 office was kind enough to forward the order for my review
17 late yesterday, and I thank you. But it did not give me
18 enough time to prepare an oral argument for you today. I'm
19 doing the best that I can.

20 First off, I'm not even going to speak to all the
21 rules and the cases the Debtors cited, as they are all made
22 up since 1789, many of which contradict one another. I have
23 had more than my share of countless conversations with
24 attorneys, law clerks, and various court menus and NYLAC,
25 and everyone says they do not know what is going on in this

1 case.

2 We have never had such a case of this capacity
3 ever in the U.S. history where a family wishes to claim
4 bankruptcy based on a piece of paper that says they are a
5 corporation and the family is 100 percent owner of the
6 corporation, Purdue Pharma, who has/is killing hundreds of
7 thousands of living humans. That's the claim
8 (indiscernible) with the criminal prosecution equitable
9 mootness from these proceedings.

10 What happens to the bankruptcy proceedings if the
11 Sacklers are rightfully arrested for their white collar
12 crimes? I am quite certain all payments will stop, drug
13 dealers' assets gets seized immediately. Although all of
14 this can change at any moment the Sacklers decide to pull a
15 hissy fit again and David Sackler threatens to pull the
16 settlement altogether one more time.

17 Why are these white collar criminals calling the
18 shots? Notwithstanding moving all the money around and
19 paying out these grandiose fees to attorneys and consultants
20 and everyone else that has their hands in the cookie jars
21 only to be nothing left in the end. There will not be a
22 dime for the claimants or the state coffers. The attorneys
23 and consultants will be the only ones to get paid as they
24 are billing monthly to make sure they can proceed in this
25 charade.

1 Now I will speak to the timeline of events in the
2 Debtors' objection. The Debtors assert the last date to
3 file an objection to the settlement was July 18, 2021,
4 according to the made-up, antiquated bankruptcy laws. Let
5 me remind this Court, I had to fire my attorney
6 (indiscernible) August of 2021 because they, like the UCC,
7 are not protecting individual claimants that have been
8 grossly harmed by Purdue Pharma, the Sackler family, and
9 these puppet masters with the FDA have created the public
10 health and safety emergency.

11 This Court is still accepting their claims to the
12 improprieties in this action, special consideration to be
13 given for the fact that I had to step forward on behalf of
14 my son, Patrick Brian (indiscernible), myself, the American
15 people.

16 I filed in a timely fashion (indiscernible)
17 immediately following the determination by counsel for his
18 misconduct. Had my counsel done his job, none of this would
19 be going on. Again, the Debtors are filing the Fourteenth
20 Amendment of the made-up constitution, specifically due
21 process, is recorded via Zoom by Your Honor that I did not
22 file in a timely fashion. And then upon a relook of the
23 dates, you corrected yourself; yet, the Debtors prepared
24 denial (indiscernible) filing in the untimely as e-signed by
25 Your Honor.

1 This is how the legal justice system falls back on
2 previous rulings that are incorrect and made up through the
3 past centuries and creates a domino effect of damage to the
4 public.

5 Because of all the incongruencies in this case and
6 all the moving pieces, it's imperative that a third party be
7 involved and provide full transparency on everything that's
8 transpired in this case. This case involves the most
9 egregious and heinous crimes against humanity in America and
10 must have an oversight committee that is objective, not the
11 UCC made up of bad actors with vested interest that are now
12 also claiming bankruptcy, like Blue Cross/Blue Shield and
13 CVS.

14 All the continual nonsense of this party and that
15 party has not met the burden of proof or test of past laws
16 that were made up means nothing. Loving humans are
17 continuing to die at a vast rate and grief is rippling like
18 a pebble in a pond and to a mental health pandemic of our
19 nation. All of the consenting states and the Debtors'
20 attorneys should have their licenses revoked. They're all
21 putting profits in their pockets over saving human lives is
22 absolutely unconscionable and inhumane.

23 Note Paragraph 3 of the Debtors' objection speaks
24 to there must be a mistake. The order prepared and signed
25 by this Court was a grievous mistake. Please watch the

1 replay of the Zoom recording before reading off your
2 prepared ruling you've brought into the courtroom this
3 morning.

4 Note Paragraph 4 alludes that on the September 13,
5 2021, omnibus hearing, I had the ability to object to
6 payments being made to the four executives. That motion
7 occurred prior to this Court recognizing me as a pro se
8 litigant and hearing my motion.

9 At that time, I did not proceed to give integrity
10 or morality to (indiscernible) in that matter, since I was
11 unaware that said motion was on the docket. I was surprised
12 and did not get my objection raised to the Court three days
13 prior to the hearing, as required by the antiquated made-up
14 laws of procedure. I was still playing catchup from Sean
15 Hannigan dropping the ball.

16 Everything that's gone on in the legal justice
17 system since George Washington has set society up for
18 failure and to make the elite more powerful and the wealthy
19 wealthier as the layperson who has no knowledge of the law
20 tries to navigate their way through seeing justice for the
21 American people, nor can a layperson like myself who's on
22 disability do so, and disability that is derived directly
23 from the Sacklers.

24 The confirmation of the bankruptcy is setting
25 another made-up case precedence that will be disastrous.

1 The unconstitutionality of these proceedings onto the
2 victims, the widespread (indiscernible) as referred by
3 releases is setting a vehicle in motion for big pharma
4 corporations, every big pharma corporation to do the same,
5 such as Mallinckrodt that's already in process and others.

6 Should this continue, no one will ever be held
7 accountable for the heinous crimes against humanity that are
8 fracturing the very fabric of the families in America
9 because we'll have a new case precedence that's been made
10 up.

11 The Sacklers did --

12 THE COURT: Ms. Issacs, I'm going to interrupt you
13 now. I really -- I'm dealing with the motion.

14 MS. ISAACS: I'm almost done. I'm almost done.

15 THE COURT: All right.

16 MS. ISAACS: I really am. Please, Your Honor, I'm
17 almost done. This is very heartbreaking. There is no love
18 involved in this.

19 The Sacklers justice, this lack of justice, this
20 Court and the attorneys' malfeasance are to the people is
21 why they're dying and being permanently harmed. The
22 (indiscernible) white collar crimes (indiscernible) press
23 statement that white collar crimes are not tolerated, DOJ
24 will be taking action. I'm patiently waiting for Miss
25 (indiscernible) to honor her word.

1 Now I've been watching and listening carefully at
2 the beginning of the September omnibus hearing. Your Honor
3 came into the courtroom with a notebook of prepared
4 decisions to read after the oral arguments phase, and it was
5 based upon the paperwork submitted. When I actually
6 represented myself, a 45-minute oral argument, the issues
7 raised were not addressed. Rather, we all heard about your
8 20-year history on the bench and how you could have been in
9 private practice and (indiscernible).

10 Judge, you had it all wrong, along with reading
11 off of your previously prepared ruling. This is all wrong.
12 Why even have oral arguments when decisions are made prior
13 to hearing? It's all ridiculous and paving the way for more
14 corporations to hide out in bankruptcy to avoid
15 accountability.

16 And it's the truth -- it's not truth or justice.
17 The Sackler family has strongarmed this Court and
18 perpetually lied to DOJ and FDA, who permitted the Sacklers
19 to use officials to pay off if they avoid prosecutions since
20 the (indiscernible).

21 The Sacklers' proposal of \$4.3 billion over nine
22 years is going to be blown through as these proceedings that
23 elevate the Supreme Court and possibly a World Court. Why a
24 World Court? Because Richard Sackler is so addicted to
25 money that the Sacklers (indiscernible) countries; hence,

1 the poisoning of loving humans around the globe. It has
2 already been identified that he's already paid out to
3 attorneys and consultants to date exceed \$1 billion.

4 Why are the attorneys and consultants not being
5 paid out over nine years? They're not dire of being harmed.
6 The dam must be closed to stop loving humans with feelings
7 and emotions are dying and previous (indiscernible) to a
8 halt. Not one more payment should be made and everyone
9 should be brought to an equal playing field and practice
10 love. Everything is now on Zoom. This includes everyone's
11 behaviors in the courtroom.

12 It's just everyone tread lightly as all eyes are
13 on this case and "Dopesick" has aired on national television
14 and the cat is out of the bag as to how addicted the
15 Sacklers are to money. Richard Sackler is so busy trying to
16 create an empire (indiscernible) and that of Arthur Sackler
17 at the expense of everyone's mental health due to the death
18 (indiscernible) family's involved in 50 states and Puerto
19 Rico, including all of the participants in these
20 proceedings, the attorneys and consultants and everybody is
21 being affected.

22 Richard Sackler continued to smear peoples'
23 reputations and create widespread stigma saying it was the
24 abuser's fault. I argued Richard Sackler is an addict, a
25 bully, an abuser, and a fraudulent manipulator and to people

1 and our government. How does everyone sleep at night?

2 I respectfully request the order be corrected to
3 reflect the truth of the timely filing and third-party
4 investigation and object to any and all payments going
5 forward until this matter reaches a final conclusion, albeit
6 the Appellate Court and Supreme Court or a World Court.

7 I am not interested in hearing about all the
8 integrated procedures and case laws. Times have
9 progressively changed and the legal justice system needs an
10 entire overhaul. If this to proceed, the DOJ might has well
11 shred the Declaration of Independence, the Constitution only
12 causing every law (indiscernible) legal document in the
13 trash; just start over before everyone becomes extinct.

14 It's time for someone to stand up to Richard
15 Sackler and the Sackler family and their entire team once
16 and for all. You still have the opportunity to be on the
17 right side of history and stop this façade before an
18 uprising occurs across our nation as families across the
19 land are angry.

20 Thank you, Your Honor.

21 THE COURT: Okay. All right. Do the Debtors have
22 any response?

23 MR. McCLAMMY: Very briefly, Your Honor. I think
24 as Your Honor has noted on prior occasions as we've heard
25 from Ms. Lubinski and as we've now heard from Ms. Isaacs,

1 you know, we all I think really understand that the impacts
2 of what we were addressing with these cases have been
3 unbelievably difficult and unbelievably personal.

4 And as we think Your Honor knows, the Debtors
5 approached these cases really in a way that's unprecedented
6 and was able to get consensus around a plan of
7 reorganization that had at its focus putting the money that
8 would be available through the plan of reorganization for
9 abatement and to compensate victims.

10 I believe, as we set out in our papers, there has
11 not been a basis set out for either reconsideration, to the
12 extent the motion can be construed as a motion for
13 reconsideration. And to the extent that there a request
14 with respect to the payments or, you know, what perhaps
15 could be construed as appointment of an examiner, we believe
16 that there's no basis set out in the papers there based on
17 the record that the Court has gone through, including at
18 confirmation.

19 And for those reasons, Your Honor, and as we
20 stated in our papers, we would ask the Court to deny the
21 motion.

22 THE COURT: Okay. All right. Again, I have
23 before me a motion by Ellen Isaacs that's dated September
24 30, 2021. It's captioned a motion for clarification, and in
25 it, Ms. Isaacs various forms of relief, the first of which

1 was, "An immediate correction to the denial of an earlier
2 motion of hers dated and filed -- well, dated July 18 and
3 filed -- I'm sorry, excuse me -- -- dated August 16 and
4 filed August 17, 2021.

5 And then, in addition, seeking other forms of
6 relief that were actually quite similar to the relief sought
7 in that motion, that August 17, 2021 motion; namely,
8 injunctions of distributions and an investigation of the
9 bankruptcy case while everything remains frozen.

10 I appreciate that Ms. Isaacs is pro se. I also
11 appreciate that she has had terrible tragedies in her life.
12 But at the same time, I need to address her motion in the
13 context that it must be put in under the Bankruptcy Code and
14 Bankruptcy Rules.

15 I'll address first the request for clarification
16 of the record. I entered an order on June 3, 2021 approving
17 the Debtors' disclosure statement for their Chapter 11 plan,
18 and that also set forth a schedule for the Court's
19 consideration of the Debtors' request for confirmation of
20 that plan that laid out in some detail as the Debtors has
21 already previously proposed, and as far as the preparation
22 for the disclosure statement hearing had been approved by
23 this Court going up to the start of the confirmation
24 hearing.

25 It was clear that there were likely to be multiple

1 objections to confirmation of the plan and a need for an
2 orderly discovery process, as well as a briefing process,
3 related to the Debtors' request for confirmation and those
4 anticipated objections. Therefore, the order laid out a
5 timetable for filing objections to confirmation, discovery
6 related to the confirmation request, and those objections
7 and the filing of replies to the objections.

8 As the parties worked through their discovery
9 process, that confirmation procedures order was modified
10 three times through a July 30th modification, but the
11 objection deadline for filing objections to confirmation of
12 the plan had already been set and that deadline was July 19,
13 2021.

14 I agreed and the Debtors agreed to take certain
15 objections a few days after that, in light of their efforts
16 to resolve as many objections as they could before they were
17 filed. But obviously to prepare for a confirmation hearing,
18 one needs an objection deadline so that all the parties can
19 focus on the issues that are to be heard at that hearing.

20 The confirmation hearing itself started on August
21 12, 2021 and continued for several days. It was an
22 evidentiary hearing, which again, of course, required
23 extensive preparation, which the parties who had filed
24 objections and were primarily going to be involved in that
25 hearing undertook.

1 On August 17, well into the course of the
2 confirmation hearing, Ms. Isaacs filed what was captioned as
3 an emergency request for immediate injunction and hearing
4 for due process, production for evidentiary documents, and
5 other relief. It's a fairly lengthy pleading, but on the
6 page preceding the signature line, it sought:

7 (1) an immediate injunction stopping the above-
8 captioned bankruptcy proceedings based on the text of the
9 emergency request, which appears at Docket No. 3587. It's
10 clear that that included or requested an injunction and
11 cessation of the confirmation hearing itself in midstream
12 and, indeed, referred to testimony during that hearing;

13 Second, it sought all medical examiner reports
14 collected by a third party for every accident overdose and
15 homicide by drug since the first prescription of OxyContin.
16 Upon review of opioid related cases, the surviving family
17 members are to be notified of these proceedings to determine
18 if they have a valid claim, followed by continual relief for
19 the families due to Purdue Pharma's devastation to the
20 families and friends across our nation, much like a fund
21 developed for the families after 9/11;

22 (3) a full-blown investigation of overdoses by
23 Valium and Librium since the first prescriptions;

24 (4) release to the public of all the discovery,
25 evidentiary, interrogatories, video fees, pictures, emails,

1 taped conversations that the Court is holding/obtaining;

2 (5) allow sufficient time for the ballots to be
3 returned regarding the bankruptcy only;

4 (6) a full-blown investigation into Janet Woodcock
5 DEA's involvement with approving OxyContin and other manmade
6 synthetic drugs purporting to relief pain, see Vioxx;

7 (7) all votes for each state to be recounted.

8 Should a state AG have voted against the will of the people
9 for their specific state, they are to be immediately removed
10 from office;

11 (8) seizure of all Purdue Pharma, the Sacklers'
12 assets and holdings, including Mundi pharmaceutical;

13 (9) the U.S. AG and UN to oversee the entire
14 bankruptcy proceedings and criminal prosecution;

15 (10) starting with the Constitutional law, the
16 precedence's, and all the other reasons stated above require
17 an immediate injunction entered immediately and a hearing
18 should be granted as soon as possible for myself, Ellen
19 Isaacs, and we the people.

20 Being in the middle of the confirmation hearing, I
21 determined not to enjoin the hearing and, instead, scheduled
22 the hearing on the foregoing request to be held after the
23 conclusion of that hearing, and it was held on September 13,
24 2021.

25 At that hearing, Ms. Isaacs stated many of the

1 things that she has stated today, and it was clear to me
2 asked that I reconsider my bench ruling, which I was in the
3 process of turning into a modified memorandum of decision.
4 As stated at Page 160 of the transcript, please refer this
5 case -- this was Ms. Isaacs speaking:

6 "Please refer this case to the Justice Department
7 for criminal prosecution, overrule the corporate and
8 bankruptcy laws, and escalation to a World Court to stop the
9 Sacklers from conducting business in the pharmaceutical
10 industry worldwide. Based on the facts of fraud, I
11 respectfully request on behalf of myself and the American
12 people that Your Honor reverse course and reconsider the
13 bench ruling for confirmation and enter an order denying
14 this settlement agreement in its entirety."

15 Ms. Isaacs subsequently filed a timely appeal of
16 the confirmation order that was entered September 17 and a
17 motion on October 5, 2021 for a stay of that order pending
18 appeal.

19 I, at the conclusion of the September 13, gave Ms.
20 Isaacs my bench ruling on her emergency motion, which Ms.
21 Isaacs, you should understand, it was not written in
22 advance. I do not write my rulings in advance. I didn't
23 write my bench ruling in advance. I do, however, come
24 prepared with memos setting forth the law and the pleadings
25 that the parties have filed, as I would hope every judge

1 would, since preparation is a key to being an effective
2 judge.

3 And it was based upon my understanding of your
4 remarks, as well as your motion, and the objectors remarks
5 and the objection to your motion that led to my ruling.

6 Your objection to the plan -- I'm sorry -- your
7 emergency motion was, in fact, filed in the middle of the
8 confirmation hearing, and I was not going to enjoin the
9 confirmation hearing on that basis. I don't believe,
10 therefore, there's anything to correct in the record on that
11 point.

12 And I treated your motion, since the only thing it
13 would properly be construed as, as a motion for
14 reconsideration of my bench ruling, and gave you my reasons
15 why I would not reconsider that ruling. In my order dated
16 September 15, 2021, I went through them in even more detail.

17 The emergency motion did not set forth a basis for
18 reconsideration under any of the grounds set forth in
19 Bankruptcy Rule 9023 or 9024.

20 As far as the other relief that has been sought,
21 I've considered your request for a stay of all activity in
22 the case pending the appeal and ruled on that previously.
23 The issue of a stay undoubtedly will come up again if the
24 appeal is denied; it will not come up obviously if the
25 appeal is granted.

1 But that issue is no longer before me, nor is your
2 request for other relief insofar as it pertains to matters
3 that are on appeal to the District Court. I don't have
4 jurisdiction over those issues anymore given that they are
5 before the District Court on appeal, so I will deny the
6 motion in its entirety.

7 I'll ask the Debtors to submit an order to that
8 effect.

9 MR. TROOP: We'll do that, Your Honor. And to the
10 extent Ms. Isaacs has mentioned that there may have been an
11 issue with (indiscernible) and access, I just wanted to note
12 for the record that we will also be looking into that.

13 THE COURT: Where should they send pleadings, Ms.
14 Isaacs?

15 MS. ISAACS: To Ryansopc@gmail.com. Thank you.

16 THE COURT: Okay, very well. I think that
17 concludes today's calendar.

18 (Whereupon these proceedings were concluded at
19 11:53 AM)

20

21

22

23

24

25

I N D E X

RULINGS

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Debtors' motion for authority to pay or reimburse the fees
and expenses of the Non-Consent State Group, the Ad Hoc
Committee, and the MSGE Group Granted 23 21

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: November 22, 2021

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